

a personal identifier including the SSN, EIN, or name.

[57 FR 46297, Oct. 8, 1992, as amended at 58 FR 47204, Sept. 8, 1993; 59 FR 52408, Oct. 18, 1994]

#### **§ 400.403 Required System of Records.**

Thirty days after the publication in the FEDERAL REGISTER of this rule, direct insurance companies and reinsured companies are required to implement a system of records for obtaining, using, and storing documents containing SSN or EIN data. This data should include: name; address; city and state; SSN or EIN; and policy numbers which have been used by the FCIC, the direct insurance company, or the reinsured companies.

#### **§ 400.404 Policyholder responsibilities.**

(a) The policyholder or applicant for crop insurance must provide a correct SSN or EIN to the FCIC, the direct insurance company, the reinsured company, or ASCS to be eligible for insurance. The SSN and EIN will be used by the FCIC, the direct insurance companies, and the reinsured companies in:

- (1) Determining the correct parties to the agreement or contract;
- (2) collecting premiums;
- (3) determining the amount of indemnities;
- (4) establishing actuarial data on an individual policyholder basis; and
- (5) determining eligibility for program benefits.

(b) If the policyholder or applicant for crop insurance does not provide the correct SSN or EIN on the application and other forms where such SSN or EIN is required, the FCIC, direct insurance company, or reinsured company will reject the application.

(c) The policyholder is required to provide to FCIC, the insurance company, the reinsured companies, and ASCS the name and SSN or EIN of any individual or company holding or acquiring access to a substantial beneficial interest in such policyholder.

#### **§ 400.405 Company responsibilities.**

The insuring or reinsured company is required to collect and record the SSN or EIN on each application or any other form required by the FCIC.

#### **§ 400.406 Restricted access.**

The Manager, other officer, or employee of the FCIC or authorized person (as defined in § 400.402(e)) may have access to the EINs and SSNs obtained pursuant to § 400.404 only for the purpose of establishing and maintaining a system of records necessary for the effective administration of the FCI Act in accordance with § 400.404 of this part. These numbers may be used in administering the FCI Act.

[58 FR 47204, Sept. 8, 1993]

#### **§ 400.407 Safeguards and storage.**

(a) Access to records identifying an applicant's SSN or EIN is restricted as provided in § 400.406. Records must be secured in locked file storage, secured computer data files, or similar safe storage. An authorized person, as defined in § 400.402(d) must maintain hardcopy records in file folders and, when not in use, such copies must be:

- (1) Locked in a cabinet or safe;
- (2) On a computer accessed only through a secure computer system procedure;
  - (i) Locked; or
  - (ii) On a computer accessed only through a secure computer system procedure.

(b) Records identifying a SSN or EIN stored on computer printouts, hard or floppy diskette, microfiche, or index cards must be kept in locked file cabinets, safes, or in secured computer systems.

#### **§ 400.408 Unauthorized disclosure.**

Anyone having access to the records identifying a participant's SSN or EIN will abide by the provisions of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)), and section 6109(f), Internal Revenue Code of 1986 (26 U.S.C. 6109(f) and the Privacy Act of 1974 (5 U.S.C. 552a). All records are confidential, and are not to be disclosed to unauthorized personnel.

#### **§ 400.409 Penalties.**

Unauthorized disclosure of SSN's or EIN's by any person may subject that person, and the person soliciting the unauthorized disclosure, to civil or criminal sanctions imposed under various Federal statutes, including 26

U.S.C. 7613, 5 U.S.C. 552a, and 42 U.S.C. 408.

**§ 400.410 Obtaining personal records.**

Policyholders in the crop insurance program will be able to review or correct their records, as provided by the Privacy Act. Participants may request their records by:

(a) Mailing a written request, with their signature, to the headquarters office of the FCIC; the field office, ASCS; the direct insurance company; or reinsured company; or

(b) Making a personal visit to the above mentioned establishments and showing valid identification.

**§ 400.411 Record retention.**

The reinsured insurance company, either direct or reinsured, will retain all records of policyholders for a period of not less than three (3) years from the date of a final action on a policy for the crop year unless maintenance of specific records is requested by the Corporation. Final actions on insurance policies include conclusion of such insurance events such as renewal or termination of policy, completion of loss adjustment, or satisfaction of claim. Companies are reminded that the Statute of Limitation for FCIC contract claims requires that litigation be instituted within six years of a breach of contract. Destruction of records will not provide a defense to any action by the Corporation against any Company.

[59 FR 52408, Oct. 18, 1994]

**§ 400.412 OMB control numbers.**

The principal information collection activity associated with this rule (application) has been approved by the Office of Management and Budget (OMB) under control number 056-003. Other OMB control numbers are contained in subpart H of part 400, title 7 CFR.

**Subpart R—Sanctions**

AUTHORITY: 7 U.S.C. 1506(l).

SOURCE: 58 FR 53110, Oct. 14, 1993, unless otherwise noted.

**§ 400.451 General.**

(a) The Federal Crop Insurance Corporation (FCIC) has implemented a system of sanctions to prevent waste, fraud, and abuse within its programs and insurance delivery systems. Such sanctions include civil penalties and disqualification from the crop insurance program under the Federal Crop Insurance Act, 7 U.S.C. 1506(m); government wide debarment and suspension; and civil penalties and assessments under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801—31 U.S.C. 3812.

(b) The provisions of this subpart apply to all contracts and agreements to which FCIC is a party unless otherwise specifically provided for in this subpart, including those in which FCIC provides administrative expense reimbursement, premium subsidy, or insurance benefits.

(c) The provisions of this subpart are in addition to any other sanctions specifically provided in applicable contracts and agreements.

(d) This subpart is applicable to any act or omission by any affected party after October 14, 1993.

**§ 400.452 Definitions.**

For purposes of this subpart, a person means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a state, a political subdivision of a state, or any agency thereof.

**§ 400.453 Exhaustion of administrative remedies.**

All administrative remedies contained herein or incorporated herein by reference must be exhausted before Judicial Review in the United States Courts may be sought, unless review is specifically required by statute.

**§ 400.454 Civil penalties.**

(a) Any person who willfully and intentionally provides any materially false or inaccurate information to FCIC or to any approved insurance provider reinsured by FCIC with respect to an insurance plan or policy issued under the authority of the Federal Crop Insurance Act, as amended, (7 U.S.C. 1501 *et seq.*) may be subject to a